

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE

Michael DeAngelis

v.

Civil No. 06-cv-376-PB

New Hampshire State Prison, et al.

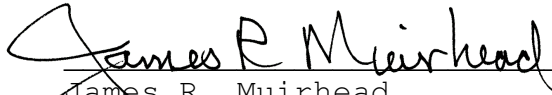
**REPORT AND RECOMMENDATION**

Plaintiff again seeks a TRO and preliminary injunction. This time he complains that a "write up" he received on 1/11/07 was in retaliation for "taking the defendants to court." His motion for TRO is not supported by the affidavit required by Fed. R. Civ. P. 65(b). The motion was not served upon defense counsel as required by Fed. R. Civ. P. 5. It is clear from the attachments to the motion that he could not possibly have exhausted his administrative remedies. Further, the officer who "wrote him up" is not a party to this action.

DeAngelis' has not at this point amended his complaint as ordered. As a consequence, his suit has not yet passed the preliminary review requirement. Given the numerous procedural failures, the benign nature of the "write up" and plaintiff's history of misusing preliminary injunction motions, I recommend that the motion be denied without prejudice to refile if his

suit survives preliminary review and when he can demonstrate exhaustion.

Any objections to this report and recommendation must be filed within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the district court's order. See Unauthorized Practice of Law Comm. v. Gordon, 979 F.2d 11, 13-14 (1st Cir. 1992); United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986).

  
James R. Muirhead  
United States Magistrate Judge

Date: February 5, 2007

cc: Michael DeAngelis, pro se  
Andrew B. Livernois, Esq.